IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.Rev.Pet.No. 42 of 2000()

CRA.35/1993 of SESSIONS COURT, MANJERI
C.C. NO.123/1993 OF JUDL. IST CLASS MAGISTRATE, PERINTHALMANNA .

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REVN. PETITIONER: APPELLANT- ACCUSED

PANGATH VIJAYAKUMAR, SON OF KRISHNAN NAIR, KARALMANNA AMSOM, THEKKUMMURI DESOM, PERINTALMANNA TALUK, MALAPPURAM DISTRICT.

BY ADV. SMT.PREETHY KARUNAKARAN
SMT.M.R.MINI
SRI.R.RAJESH

RESPONDENT: RESPONDENT- COMPLAINANT

STATE OF KERALA, REP.BY THE CIRCLE INSPECTOR OF POLICE, PERINTALMANNA, MALAPPURAM DISTRICT REP.BY PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.42/2000

ORDER ON CRL.MP. 160/2000 IN CRL.RP. 42/2000

DISMISSED

22.08.2007 **SD/- K.R.UDAYABHANU , JUDGE**

/TRUE COPY/

P.S. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.R.P.No.42 of 2000

Dated this the 22nd day of August, 2007

O R D E R

The revision petitioner is the accused driver who stands convicted and sentenced to undergo R.I. for 1½ years and also to pay a fine of Rs.3,000/- and in default, to undergo simple imprisonment for six months for the offence under Section 304(A) IPC and simple imprisonment for six months for the offence under Section 337 IPC and simple imprisonment for six months for the offence under Section 279 IPC. The driving licence of the accused was suspended for a period of two years.

2. The prosecution case is that the accused on 25.5.1992 at about 4.30 p.m., at the Municipal bus stand, Perinthalmanna, drove the bus bearing registration No.KLM 7027 in a rash and negligent manner so as to endanger human life while PW1 was crossing through the front side of the bus with two boys and hit PW1 and the boys and that one of the boys died due to the injuries sustained in the incident.

3. The evidence adduced in the matter consisted of the

testimony of PWs' 1 to 13 and Exts. P1 to P9.

4. The courts below have concurrently held that the accused is guilty of the offence on the basis of the evidence adduced in the matter. The witnesses have testified as to the identity of the accused. PW6, the MVI has proved Ext. P3 inspection report which disclosed no mechanical defect to the vehicle. Ext. P6 is the trip sheet that establish the identity of the accused. In the circumstances and in view of the nature of the accident, I find no reason to interfere in the findings of the courts below. The conviction is confirmed.

5. The counsel for the revision petitioner has pleaded for modification of the sentence pointing out that the incident has taken place more than 15 years ago and that so far the accused was facing the ordeal of criminal proceedings. Further, it is pointed out that the accused is a low paid person being the driver of a private bus.

6. In the circumstances and considering the long delay, the sentence imposed for the offence under Section 304(A) IPC is modified to imprisonment till the rising of the court and to pay a

compensation of Rs.30,000/- to the legal representatives of the deceased and in default, to undergo simple imprisonment for six months. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted three months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-II, Perinthalmanna on 24.11.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.1144/2000

ORDER

8th August 2007